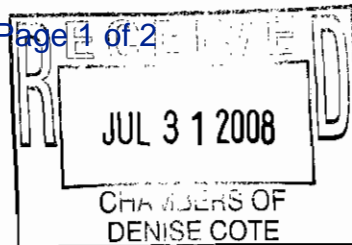


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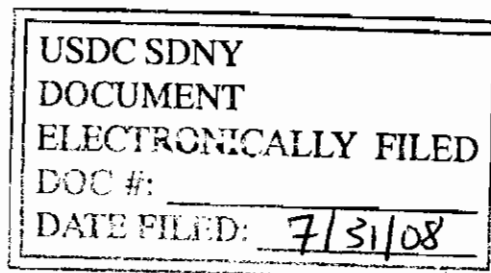
MEMO ENDORSED



July 31, 2008
30-0001

BY HAND

The Honorable Denise L. Cote
United States District Court
Southern District of New York
500 Pearl Street, Room 1040
New York, New York 10007



Re: *Trustees of the 1199/SEIU Greater New York Benefit Fund, et al. v. Kingsbridge Heights Rehabilitation Care Center, 07-CV-9744 (DLC)*

Dear Judge Cote:

Late Monday evening my firm filed a notice of appearance on behalf of Kingsbridge Heights Rehabilitation Care Center ("Kingsbridge") in the above-referenced action. At or about that time, I learned that the depositions of Ms. Helen Sieger and Abraham Tyberg had been scheduled by prior counsel to take place on Wednesday, July 29, 2008 and the following day I learned from plaintiff's counsel that the deposition of plaintiffs' witnesses, Mr. Petrella and Ms. Behroozi, had been scheduled for the following day Thursday, July 31, 2008.

Given my unfamiliarity with the facts concerning this action and Ms Sieger's and Mr. Tyberg's pressing need to assist with the preparation of discovery responses due at week's end, I contacted plaintiffs' counsel, Mr. Kolko, and requested an adjournment of the scheduled depositions. In making this request, I noted to Mr. Kolko that Your Honor ruled in the July 25, 2008 Order that "the parties may extend discovery on consent, provided that the August 15 date for the filing of any summary judgment motions remains firm." I further noted that, as a practical matter, it makes more sense to conduct these depositions after defendant had responded to plaintiffs' pending discovery requests at the end of this week.

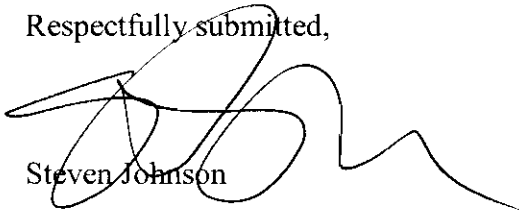
After several telephone discussions in the late afternoon on July 29, 2008, Mr. Kolko and I agreed that Ms. Sieger's and Tyberg's deposition would take place on Monday, August 4, 2008 at Mr. Kolko's office. As I will be out of town taking depositions in another matter from Tuesday, August 5th through Thursday, August 7th, I told Mr. Kolko that I would take plaintiffs' depositions the following week of August 11, 2008. Mr. Kolko indicated that Ms. Behroozi would be on vacation that week and I agreed to take her deposition when she returned from her vacation. While Mr. Kolko argued that Ms. Behroozi's deposition was unnecessary, he voiced no objection to my taking Mr. Petrella's deposition the week of August 11th, but rather, sought to convince me that his deposition was the only one that was needed.

The Hon. Denise L. Cote
July 31, 2008
Page 2 of 2

As for the other noticed depositions of Messrs. Wells, Gresham and Sackman, Mr. Kolko sought my consent to withdraw the deposition notices with respect to these individuals, which I declined to do. At his insistence, however, I spoke to my client and gave him a brief explanation as to the relevance of these witnesses. As I explained, each of these witnesses has knowledge concerning Kingsbridge's payments and its delinquencies and has engaged in communications with Ms. Seiger and/or others concerning said payments and delinquencies. We agreed to disagree on the need for these witnesses and to take this issue up with the Court, if necessary.

Last night, at approximately 7:15 p.m., Mr. Kolko sent me an email (copy attached) refusing to produce any of the witnesses whose depositions had been previously noticed absent direction from the Court. Accordingly, Kingsbridge respectfully request that the Court order the deposition of the noticed deponents (Messrs. Petrella, Wells, Gresham and Sackman) for the week of August 11, 2008 at a mutually agreeable date and further order the deposition of Ms. Behroozi at a mutually agreeable date after she returns from vacation. Alternatively, Kingsbridge would request a conference with Your Honor to discuss the scheduling of these depositions.

Respectfully submitted,



Steven Johnson

SJ:rrw

cc: Hanan Kolko, Esq.

PCLAW9892

*The parties shall participate in a
telephone conference with the
Court on August 1 at 4:30 pm.
They must meet and confer
prior to that conference to
try to resolve their disputes.
Denise Cote
July 31, 2008*